

108TH CONGRESS
1ST SESSION

H.R. 1675

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2003

Mr. MORAN of Kansas (for himself, Mr. POMEROY, Mr. WALDEN of Oregon, Mr. STENHOLM, Mr. PETERSON of Pennsylvania, Mr. BERRY, Mr. KIND, Mr. MCHUGH, Mr. SANDLIN, Mr. EVANS, Mr. DAVIS of Alabama, and Mr. CASE) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECUR-**
 2 **RITY ACT; REFERENCES TO BIPA; TABLE OF**
 3 **CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Health Care Access and Rural Equity Act of 2003”.

6 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
 7 cept as otherwise specifically provided, whenever in this
 8 Act an amendment is expressed in terms of an amendment
 9 to or repeal of a section or other provision, the reference
 10 shall be considered to be made to that section or other
 11 provision of the Social Security Act.

12 (c) REFERENCES TO BIPA.—In this Act, the term
 13 “BIPA” means the Medicare, Medicaid, and SCHIP Ben-
 14 efits Improvement and Protection Act of 2000, as enacted
 15 into law by section 1(a)(6) of Public Law 106–554 (114
 16 Stat. 2763).

17 (d) TABLE OF CONTENTS.—The table of contents of
 18 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE RURAL HEALTH CARE IMPROVEMENTS

Sec. 101. Equalizing urban and rural standardized payment amounts under the
 Medicare inpatient hospital prospective payment system.

Sec. 102. Fairness in the medicare disproportionate share hospital (DSH) ad-
 justment for rural hospitals.

Sec. 103. Adjustment to the medicare inpatient hospital PPS wage index to re-
 vise the labor-related share of such index.

Sec. 104. One-year extension of hold harmless provisions for small rural hos-
 pitals under medicare prospective payment system for hospital
 outpatient department services.

Sec. 105. One-year hold harmless treatment of certain sole community hospitals
 to limit decline in payment under the OPD PPS.

Sec. 106. Critical access hospital (CAH) improvements.

Sec. 107. Permanent treatment of certain physician pathology services under medicare.

TITLE II—OTHER RURAL HOSPITAL REFORMS

Sec. 201. Capital infrastructure revolving loan program.

Sec. 202. Five-year extension of the authorization for appropriations for certain medicare rural grants.

1 **TITLE I—MEDICARE RURAL** 2 **HEALTH CARE IMPROVEMENTS** 3 **SEC. 101. EQUALIZING URBAN AND RURAL STANDARDIZED** 4 **PAYMENT AMOUNTS UNDER THE MEDICARE** 5 **INPATIENT HOSPITAL PROSPECTIVE PAY-** 6 **MENT SYSTEM.**

7 (a) IN GENERAL.—Section 1886(d)(3)(A)(iv) (42
 8 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

9 (1) by striking “(iv) For discharges” and in-
 10 serting “(iv)(I) Subject to subclause (II), for dis-
 11 charges”; and

12 (2) by adding at the end the following new sub-
 13 clause:

14 “(II) For discharges occurring in a fiscal year
 15 beginning with fiscal year 2004, the Secretary shall
 16 compute a standardized amount for hospitals located
 17 in any area within the United States and within
 18 each region equal to the standardized amount com-
 19 puted for the previous fiscal year under this sub-
 20 paragraph for hospitals located in a large urban area
 21 (or, beginning with fiscal year 2005, for hospitals lo-
 22 cated in any area) increased by the applicable per-

centage increase under subsection (b)(3)(B)(i) for the fiscal year involved.”.

(b) CONFORMING AMENDMENTS.—

(1) COMPUTING DRG-SPECIFIC RATES.—Section 1886(d)(3)(D) (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) in the heading, by striking “IN DIFFERENT AREAS”;

(B) in the matter preceding clause (i), by striking “, each of”;

(C) in clause (i)—

(i) in the matter preceding subclause (I), by inserting “for fiscal years before fiscal year 2004,” before “for hospitals”; and

(ii) in subclause (II), by striking “and” after the semicolon at the end;

(D) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting “for fiscal years before fiscal year 2004,” before “for hospitals”; and

(ii) in subclause (II), by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following new clause:

1 “(iii) for a fiscal year beginning after fiscal
2 year 2003, for hospitals located in all areas, to
3 the product of—

4 “(I) the applicable standardized
5 amount (computed under subparagraph
6 (A)), reduced under subparagraph (B),
7 and adjusted or reduced under subpara-
8 graph (C) for the fiscal year; and

9 “(II) the weighting factor (determined
10 under paragraph (4)(B)) for that diag-
11 nosis-related group.”.

12 (2) TECHNICAL CONFORMING SUNSET.—Section
13 1886(d)(3) (42 U.S.C. 1395ww(d)(3)) is amended—

14 (A) in the matter preceding subparagraph
15 (A), by inserting “, for fiscal years before fiscal
16 year 1997,” before “a regional adjusted DRG
17 prospective payment rate”; and

18 (B) in subparagraph (D), in the matter
19 preceding clause (i), by inserting “, for fiscal
20 years before fiscal year 1997,” before “a re-
21 gional DRG prospective payment rate for each
22 region,”.

1 **SEC. 102. FAIRNESS IN THE MEDICARE DISPROPOR-**
 2 **TIONATE SHARE HOSPITAL (DSH) ADJUST-**
 3 **MENT FOR RURAL HOSPITALS.**

4 (a) EQUALIZING DSH PAYMENT AMOUNTS.—

5 (1) IN GENERAL.—Section 1886(d)(5)(F)(vii)
 6 (42 U.S.C. 1395ww(d)(5)(F)(vii)) is amended by in-
 7 serting “, and, after October 1, 2003, for any other
 8 hospital described in clause (iv),” after “clause
 9 (iv)(I)” in the matter preceding subclause (I).

10 (2) CONFORMING AMENDMENTS.—Section
 11 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is
 12 amended—

13 (A) in clause (iv)—

14 (i) in subclause (II)—

15 (I) by inserting “and before Oc-
 16 tober 1, 2003,” after “April 1,
 17 2001,”; and

18 (II) by inserting “or, for dis-
 19 charges occurring on or after October
 20 1, 2003, is equal to the percent deter-
 21 mined in accordance with the applica-
 22 ble formula described in clause (vii)”
 23 after “clause (xiii)”;

24 (ii) in subclause (III)—

1 (I) by inserting “and before Oc-
2 tober 1, 2003,” after “April 1,
3 2001,”; and

4 (II) by inserting “or, for dis-
5 charges occurring on or after October
6 1, 2003, is equal to the percent deter-
7 mined in accordance with the applica-
8 ble formula described in clause (vii)”
9 after “clause (xii)”;
10 (iii) in subclause (IV)—

11 (I) by inserting “and before Oc-
12 tober 1, 2003,” after “April 1,
13 2001,”; and

14 (II) by inserting “or, for dis-
15 charges occurring on or after October
16 1, 2003, is equal to the percent deter-
17 mined in accordance with the applica-
18 ble formula described in clause (vii)”
19 after “clause (x) or (xi)”;
20 (iv) in subclause (V)—

21 (I) by inserting “and before Oc-
22 tober 1, 2003,” after “April 1,
23 2001,”; and

24 (II) by inserting “or, for dis-
25 charges occurring on or after October

1 1, 2003, is equal to the percent deter-
 2 mined in accordance with the applica-
 3 ble formula described in clause (vii)”
 4 after “clause (xi)”;
 5 and
 6 (v) in subclause (VI)—

7 (I) by inserting “and before Oc-
 8 tober 1, 2003,” after “April 1,
 9 2001,”; and

10 (II) by inserting “or, for dis-
 11 charges occurring on or after October
 12 1, 2003, is equal to the percent deter-
 13 mined in accordance with the applica-
 14 ble formula described in clause (vii)”
 15 after “clause (x)”;

16 (B) in clause (viii), by striking “The for-
 17 mula” and inserting “For discharges occurring
 18 before October 1, 2003, the formula”; and

19 (C) in each of clauses (x), (xi), (xii), and
 20 (xiii), by striking “For purposes” and inserting
 21 “With respect to discharges occurring before
 22 October 1, 2003, for purposes”.

23 (b) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply with respect to discharges occur-
 ring on or after October 1, 2003.

1 **SEC. 103. ADJUSTMENT TO THE MEDICARE INPATIENT HOS-**
 2 **PITAL PPS WAGE INDEX TO REVISE THE**
 3 **LABOR-RELATED SHARE OF SUCH INDEX.**

4 (a) IN GENERAL.—Section 1886(d)(3)(E) (42 U.S.C.
 5 1395ww(d)(3)(E)) is amended—

6 (1) by striking “WAGE LEVELS.—The Sec-
 7 retary” and inserting “WAGE LEVELS.—

8 “(i) IN GENERAL.—Except as provided in
 9 clause (ii), the Secretary”; and

10 (2) by adding at the end the following new
 11 clause:

12 “(ii) ALTERNATIVE PROPORTION TO BE
 13 ADJUSTED BEGINNING IN FISCAL YEAR 2004.—

14 “(I) IN GENERAL.—Except as pro-
 15 vided in subclause (II), for discharges oc-
 16 ccurring on or after October 1, 2003, the
 17 Secretary shall substitute ‘62 percent’ for
 18 the proportion described in the first sen-
 19 tence of clause (i).

20 “(II) HOLD HARMLESS FOR CERTAIN
 21 HOSPITALS.—If the application of sub-
 22 clause (I) would result in lower payments
 23 to a hospital than would otherwise be
 24 made, then this subparagraph shall be ap-
 25 plied as if this clause had not been en-
 26 acted.”.

(b) WAIVING BUDGET NEUTRALITY.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)), as amended by subsection (a), is amended by adding at the end of clause (i) the following new sentence: “The Secretary shall apply the previous sentence for any period as if the amendments made by section 103(a) of the Health Care Access and Rural Equity Act of 2003 had not been enacted.”.

SEC. 104. ONE-YEAR EXTENSION OF HOLD HARMLESS PROVISIONS FOR SMALL RURAL HOSPITALS UNDER MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

Section 1833(t)(7)(D)(i) (42 U.S.C. 1395l(t)(7)(D)(i)) is amended by striking “2004” and inserting “2005”.

SEC. 105. ONE-YEAR HOLD HARMLESS TREATMENT OF CERTAIN SOLE COMMUNITY HOSPITALS TO LIMIT DECLINE IN PAYMENT UNDER THE OPD PPS.

(a) HOLD HARMLESS PROVISION.—Section 1833(t)(7)(D)(i) (42 U.S.C. 1395l(t)(7)(D)(i)), as amended by section 104, is further amended—

(1) in the heading, by striking “SMALL” and inserting “CERTAIN”; and

1 (2) by inserting “or a sole community hospital
2 (as defined in section 1886(d)(5)(D)(iii)) located in
3 a rural area” after “100 beds”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a)(2) shall apply with respect to payment for
6 OPD services furnished on and after January 1, 2004.

7 **SEC. 106. CRITICAL ACCESS HOSPITAL (CAH) IMPROVE-**
8 **MENTS.**

9 (a) ELIMINATION OF THE ISOLATION TEST FOR
10 COST-BASED CAH AMBULANCE SERVICES.—

11 (1) IN GENERAL.—Section 1834(l)(8) (42
12 U.S.C. 1395m(l)), as added by section 205(a) of
13 BIPA (114 Stat. 2763A–482), is amended by strik-
14 ing the comma at the end of subparagraph (B) and
15 all that follows and inserting a period.

16 (2) TECHNICAL CORRECTION.—Section 1834(l)
17 (42 U.S.C. 1395m(l)) is amended by redesignating
18 paragraph (8), as added by section 221(a) of BIPA
19 (114 Stat. 2763A–486), as paragraph (9).

20 (b) COVERAGE OF COSTS FOR CERTAIN EMERGENCY
21 ROOM ON-CALL PROVIDERS.—

22 (1) IN GENERAL.—Section 1834(g)(5) (42
23 U.S.C. 1395m(g)(5)) is amended—

24 (A) in the heading—

1 (i) by inserting “CERTAIN” before
2 “EMERGENCY”; and

3 (ii) by striking “PHYSICIANS” and in-
4 serting “PROVIDERS”;

5 (B) by striking “emergency room physi-
6 cians who are on-call (as defined by the Sec-
7 retary)” and inserting “physicians, physician
8 assistants, nurse practitioners, and clinical
9 nurse specialists who are on-call (as defined by
10 the Secretary) to provide emergency services”;
11 and

12 (C) by striking “physicians’ services” and
13 inserting “services covered under this title”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by paragraph (1) shall apply with respect to costs
16 incurred for services provided on or after January 1,
17 2004.

18 (c) AUTHORIZATION OF PERIODIC INTERIM PAY-
19 MENT (PIP).—

20 (1) IN GENERAL.—Section 1815(e)(2) (42
21 U.S.C. 1395g(e)(2)) is amended—

22 (A) in subparagraph (C), by striking
23 “and” after the semicolon at the end;

24 (B) in subparagraph (D), by adding “and”
25 after the semicolon at the end; and

1 (C) by inserting after subparagraph (D)
 2 the following new subparagraph:

3 “(E) inpatient critical access hospital services,”.

4 (2) EFFECTIVE DATE.—The amendments made
 5 by paragraph (1) shall apply with respect to pay-
 6 ments for inpatient critical access hospital services
 7 furnished on or after January 1, 2004.

8 (d) EXCLUSION OF NEW CAHS FROM PPS HOS-
 9 PITAL WAGE INDEX CALCULATION.—Section
 10 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)), as amended
 11 by section 103(a), is further amended by inserting after
 12 the first sentence of clause (i) the following new sentence:
 13 “In calculating the hospital wage levels under the pre-
 14 ceding sentence applicable with respect to cost reporting
 15 periods beginning on or after January 1, 2004, the Sec-
 16 retary shall exclude the wage levels of any hospital that
 17 became a critical access hospital prior to the cost reporting
 18 period for which such hospital wage levels are calculated.”.

19 **SEC. 107. PERMANENT TREATMENT OF CERTAIN PHYSI-**
 20 **CIAN PATHOLOGY SERVICES UNDER MEDI-**
 21 **CARE.**

22 (a) IN GENERAL.—Section 1848(i) (42 U.S.C.
 23 1395w-4(i)) is amended by adding at the end the fol-
 24 lowing new paragraph:

1 “(4) TREATMENT OF CERTAIN PHYSICIAN PA-
2 THOLOGY SERVICES.—

3 “(A) IN GENERAL.—With respect to serv-
4 ices furnished on or after January 1, 2001, if
5 an independent laboratory furnishes the tech-
6 nical component of a physician pathology serv-
7 ice to a fee-for-service medicare beneficiary who
8 is an inpatient or outpatient of a covered hos-
9 pital, the Secretary shall treat such component
10 as a service for which payment shall be made
11 to the laboratory under this section and not as
12 an inpatient hospital service for which payment
13 is made to the hospital under section 1886(d)
14 or as a hospital outpatient service for which
15 payment is made to the hospital under section
16 1833(t).

17 “(B) DEFINITIONS.—In this paragraph:

18 “(i) COVERED HOSPITAL.—

19 “(I) IN GENERAL.—The term
20 ‘covered hospital’ means, with respect
21 to an inpatient or outpatient, a hos-
22 pital that had an arrangement with
23 an independent laboratory that was in
24 effect as of July 22, 1999, under
25 which a laboratory furnished the tech-

1 nical component of physician pathol-
2 ogy services to fee-for-service medi-
3 care beneficiaries who were hospital
4 inpatients or outpatients, respectively,
5 and submitted claims for payment for
6 such component to a carrier with a
7 contract under section 1842 and not
8 to the hospital.

9 “(II) CHANGE IN OWNERSHIP
10 DOES NOT AFFECT DETERMINA-
11 TION.—A change in ownership with
12 respect to a hospital on or after the
13 date referred to in subclause (I) shall
14 not affect the determination of wheth-
15 er such hospital is a covered hospital
16 for purposes of such subclause.

17 “(ii) FEE-FOR-SERVICE MEDICARE
18 BENEFICIARY.—The term ‘fee-for-service
19 medicare beneficiary’ means an individual
20 who is entitled to (or enrolled for) benefits
21 under part A, or enrolled under this part,
22 or both, but who is not enrolled in any of
23 the following:

24 “(I) A Medicare+Choice plan
25 under part C.

1 “(II) A plan offered by an eligi-
2 ble organization under section 1876.

3 “(III) A program of all-inclusive
4 care for the elderly (PACE) under
5 section 1894.

6 “(IV) A social health mainte-
7 nance organization (SHMO) dem-
8 onstration project established under
9 section 4018(b) of the Omnibus
10 Budget Reconciliation Act of 1987
11 (Public Law 100–203).”.

12 (b) CONFORMING AMENDMENT.—Section 542 of
13 BIPA (114 Stat. 2763A–550) is repealed.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect as if included in the enact-
16 ment of the Medicare, Medicaid, and SCHIP Benefits Im-
17 provement and Protection Act of 2000 (114 Stat. 2763A–
18 463 et seq.), as enacted into law by section 1(a)(6) of Pub-
19 lic Law 106–554.

TITLE II—OTHER RURAL HOSPITAL REFORMS

SEC. 201. CAPITAL INFRASTRUCTURE REVOLVING LOAN PROGRAM.

(a) IN GENERAL.—Part A of title XVI of the Public Health Service Act (42 U.S.C. 300q et seq.) is amended by adding at the end the following new section:

“CAPITAL INFRASTRUCTURE REVOLVING LOAN PROGRAM
“SEC. 1603. (a) AUTHORITY TO MAKE AND GUARANTEE LOANS.—

“(1) AUTHORITY TO MAKE LOANS.—The Secretary may make loans from the fund established under section 1602(d) to any rural entity for projects for capital improvements, including—

“(A) the acquisition of land necessary for the capital improvements;

“(B) the renovation or modernization of any building;

“(C) the acquisition or repair of fixed or major movable equipment; and

“(D) such other project expenses as the Secretary determines appropriate.

“(2) AUTHORITY TO GUARANTEE LOANS.—

“(A) IN GENERAL.—The Secretary may guarantee the payment of principal and interest

1 for loans made to rural entities for projects for
2 any capital improvement described in paragraph
3 (1) to any non-Federal lender.

4 “(B) INTEREST SUBSIDIES.—In the case
5 of a guarantee of any loan made to a rural enti-
6 ty under subparagraph (A), the Secretary may
7 pay to the holder of such loan, for and on be-
8 half of the project for which the loan was made,
9 amounts sufficient to reduce (by not more than
10 3 percent) the net effective interest rate other-
11 wise payable on such loan.

12 “(b) AMOUNT OF LOAN.—The principal amount of
13 a loan directly made or guaranteed under subsection (a)
14 for a project for capital improvement may not exceed
15 \$5,000,000.

16 “(c) FUNDING LIMITATIONS.—

17 “(1) GOVERNMENT CREDIT SUBSIDY EXPO-
18 SURE.—The total of the Government credit subsidy
19 exposure under the Credit Reform Act of 1990 scor-
20 ing protocol with respect to the loans outstanding at
21 any time with respect to which guarantees have been
22 issued, or which have been directly made, under sub-
23 section (a) may not exceed \$50,000,000 per year.

24 “(2) TOTAL AMOUNTS.—Subject to paragraph
25 (1), the total of the principal amount of all loans di-

1 rectly made or guaranteed under subsection (a) may
 2 not exceed \$250,000,000 per year.

3 “(d) CAPITAL ASSESSMENT AND PLANNING
 4 GRANTS.—

5 “(1) NONREPAYABLE GRANTS.—Subject to
 6 paragraph (2), the Secretary may make a grant to
 7 a rural entity, in an amount not to exceed \$50,000,
 8 for purposes of capital assessment and business
 9 planning.

10 “(2) LIMITATION.—The cumulative total of
 11 grants awarded under this subsection may not ex-
 12 ceed \$2,500,000 per year.

13 “(e) TERMINATION OF AUTHORITY.—The Secretary
 14 may not directly make or guarantee any loan under sub-
 15 section (a) or make a grant under subsection (d) after
 16 September 30, 2008.”.

17 (b) RURAL ENTITY DEFINED.—Section 1624 of the
 18 Public Health Service Act (42 U.S.C. 300s–3) is amended
 19 by adding at the end the following new paragraph:

20 “(14)(A) The term ‘rural entity’ includes—

21 “(i) a rural health clinic, as defined in sec-
 22 tion 1861(aa)(2) of the Social Security Act;

23 “(ii) any medical facility with at least 1
 24 bed, but with less than 50 beds, that is located
 25 in—

1 “(I) a county that is not part of a
2 metropolitan statistical area; or

3 “(II) a rural census tract of a metro-
4 politan statistical area (as determined
5 under the most recent modification of the
6 Goldsmith Modification, originally pub-
7 lished in the Federal Register on February
8 27, 1992 (57 Fed. Reg. 6725));

9 “(iii) a hospital that is classified as a
10 rural, regional, or national referral center under
11 section 1886(d)(5)(C) of the Social Security
12 Act; and

13 “(iv) a hospital that is a sole community
14 hospital (as defined in section
15 1886(d)(5)(D)(iii) of the Social Security Act).

16 “(B) For purposes of subparagraph (A), the
17 fact that a clinic, facility, or hospital has been geo-
18 graphically reclassified under the medicare program
19 under title XVIII of the Social Security Act shall not
20 preclude a hospital from being considered a rural en-
21 tity under clause (i) or (ii) of subparagraph (A).”.

22 (c) CONFORMING AMENDMENTS.—Section 1602 of
23 the Public Health Service Act (42 U.S.C. 300q–2) is
24 amended—

1 (1) in subsection (b)(2)(D), by inserting “or
 2 1603(a)(2)(B)” after “1601(a)(2)(B)”; and

3 (2) in subsection (d)—

4 (A) in paragraph (1)(C), by striking “sec-
 5 tion 1601(a)(2)(B)” and inserting “sections
 6 1601(a)(2)(B) and 1603(a)(2)(B)”; and

7 (B) in paragraph (2)(A), by inserting “or
 8 1603(a)(2)(B)” after “1601(a)(2)(B)”.

9 **SEC. 202. FIVE-YEAR EXTENSION OF THE AUTHORIZATION**
 10 **FOR APPROPRIATIONS FOR CERTAIN MEDI-**
 11 **CARE RURAL GRANTS.**

12 Section 1820(j) (42 U.S.C. 1395i–4(j)) is amended
 13 by striking “subsection (g)” and all that follows and in-
 14 serting “subsection (g)—

15 “(1) \$25,000,000 in each of the fiscal years
 16 1998 through 2003; and

17 “(2) \$40,000,000 in each of the fiscal years
 18 2004 through 2008.”.

○